

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** Assessing Officials and County Auditors

**FROM:** Brian E. Bailey, Commissioner BEB

**RE:** Property Tax Assessment and Credit Appeals

**DATE:** May 20, 2011

House Enrolled Act (HEA) 1004-2011 makes numerous amendments to statutes governing the application of property tax credits and the process of appealing the assessment of property. Specifically, HEA 1004-2011 adds IC 6-1.1-15-17 and amends IC 6-1.1-15-1, IC 6-1.1-15-12, and IC 6-1.5-4-1. This memorandum addresses each of these changes.

In brief, one significant change is that the Indiana Board of Tax Review (IBTR) and Indiana Tax Court will now apply the five percent (5%) burden-shifting provision in assessment appeals. The law also simplifies how to determine whether the 5% burden-shifting provision applies. Finally, the General Assembly makes clear that taxpayers can appeal an incorrect tax cap designation.

## **The 5% burden-shifting provision applies to the IBTR and Tax Court as well as PTABOA**

IC 6-1.1-15-1 establishes the steps a taxpayer must follow to obtain a review by the property tax assessment board of appeals (PTABOA) of an assessment or certain property tax deductions. HEA 1004-2011 transfers from this section to IC 6-1.1-15-17 a provision imposing on the assessor the burden of proving the correctness of an assessment that increased the assessed value of property by more than 5%.

This new section, IC 6-1.1-15-17, applies to any review or appeal of an assessment if the assessment increased the assessed value of the property by more than 5% over the assessed value determined by the assessor for the immediately preceding assessment date for the same property. When the assessed value has increased by more than 5%, the assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal before the PTABOA and in any appeals taken to the IBTR or the Indiana Tax Court.

The point of comparison to determine whether the increase is greater than 5% also has been clarified. The old provision (IC 6-1.1-15-1(p) now repealed) compared the latest assessed value to the assessed value "finally determined" for the immediately preceding assessment date. It was unclear whether finally determined meant the determination by the assessor or, if there was a pending assessment appeal: the PTABOA, IBTR, or Indiana Tax Court. The new law clarifies that the point of comparison is the assessed value determined by the assessor the previous year.

### **Taxpayer Appeal for Circuit Breaker Credit or Other Credits**

HEA 1004-2011 amends subsection IC 6-1.1-15-12(a)(8) to clarify that a correction of error appeal exists for property tax credits, including the "circuit breaker" credit. For example, if a taxpayer is classified to receive the 2% tax cap when he should have received the 1% tax cap, he is expressly authorized to appeal that classification through a correction of error. So, in addition to other correction-of-error appeals (e.g., a math error in computing taxes or penalties), a taxpayer may seek a correction of error to receive:

- 1) the proper credit under IC 6-1.1-20.6-7.5 (the circuit breaker credits) for property taxes imposed for an assessment date after January 15, 2011;
- 2) any other credit permitted by law;
- 3) an exemption permitted by law; or
- 4) a deduction permitted by law.

To correct an error under IC 6-1.1-15-12(a)(8), the correction must be approved by at least two of the following officials:

- 1) the township assessor (if any);
- 2) the county auditor; or
- 3) the county assessor.

If two of these officials do not approve such a correction, the county auditor must refer the matter to the PTABOA for determination. The PTABOA must provide a copy of the determination to the taxpayer and to the county auditor.

HEA 1004-2011 also amends IC 6-1.5-4-1 to give the IBTR authority to review appeals concerning property tax credits.

### **Contact Information**

Questions may be directed to General Counsel Micah Vincent at 317-233-6770 or [mvincent@dlgf.in.gov](mailto:mvincent@dlgf.in.gov).